

Memo

To: Douglas Yoder
Assistant Director
Department of Environmental Resources Management

From: Ardyth Walker
Staff General Counsel

Date: April 22, 2004

Re: RQO 04-80

I received your request for an advisory opinion regarding the application of Section 2-11.1 (m)(1) to a current county employee doing business with your department. In your memorandum, you state that the county employee has represented clients who are seeking action from your department. You requested guidance as to the appropriate action by your staff when a county employee, on behalf of a third party, seeks action from your department. I have rendered the opinion based on the facts in your memorandum. The Ethics Commission has not considered this matter. Please contact me if you want the matter placed on the Commission's agenda.

The Conflict of Interest and Code of Ethics ordinance prohibits county employees from making a presentation on behalf of a third party before any county agency. Section 2-11.1 (m)(1) states that " no person included in the terms defined in subsections (b)(1), (b)(5) and (b)(6) (Commissioners, departmental personnel and employees) shall appear before any County board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form for services rendered to a third person who has applied for or is seeking some benefit from the County or a County agency, in connection with the particular benefit sought by the third person. Nor shall such person appear before any administrative tribunal as counsel or legal advisor to a party who seeks legal from the County or a county agency through the suit in question."

Section 2-11.1(m)(1) prohibits a county employee from seeking any decision or action by a county agency on behalf of a third party. Therefore, the county employee may not meet with departmental staff and seek decisions or permits on behalf of third parties. Further, the county employee may not be compensated by his clients for any decisions rendered by county agencies.

Any DERM employee should advise the county employee that the Conflict of Interest and Code of Ethics ordinance prohibits them from meeting with county employees who represent third parties on a matter. The county employee should be advised to contact me if he or she has questions regarding the application of the ordinance to his or her activities.

Please contact me at 350-0616 if I can provide additional assistance.